



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

DANIEL LOPEZ,	§	
Petitioner,	§	
	§	
vs.	§	Civil Action No. 9:22-cv-00250-MGL
	§	
WARDEN OF TYGER RIVER	§	
CORRECTIONAL INSTITUTION,	§	
Respondent,	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING RESPONDENT’S MOTION FOR SUMMARY JUDGMENT,
AND DISMISSING HABEAS PETITION WITH PREJUDICE**

Daniel Lopez (Lopez), who is represented by counsel, filed a petition for writ of habeas corpus (Lopez’s Petition) under 28 U.S.C. § 2254. Respondent Warden of Tyger River Correctional Institution (Warden) filed a motion for summary judgment on Lopez’s Petition.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court grant Warden’s motion for summary judgment and dismiss Lopez’s Petition with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a de novo review, however, “when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge’s] proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

The Magistrate Judge filed the Report on December 8, 2022. The Court granted Lopez an extension until January 3, 2023, to object. Nevertheless, to date, Lopez has failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Warden’s motion for summary judgment is **GRANTED** and Lopez’s Petition is **DISMISSED WITH PREJUDICE**.

To the extent Lopez seeks a certificate of appealability, that request is **DENIED**.

IT IS SO ORDERED.

Signed this 25th day of January 2023, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE